

RECEIVED
CENTRAL FAX CENTER
MAY 29 2007

Application No.: 09/895,532
Reply to Office Action of February 9, 2007

REMARKS/ARGUMENTS

The final Office Action of February 9, 2007, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Allowable Claims

Applicant notes with appreciation the indication of allowable subject matter in claims 14-16, 18-19, 31, 35-36, 45-47, and 49-50. Applicant has not rewritten these claims in independent form because Applicant maintains that all claims are presently allowable based on the arguments and remarks presented herein.

Rejections Under 35 U.S.C. § 103

Claims 1-3, 5-10, 20-30, 32-34, 37, 38, 40, 41 and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,321,267 to Donaldson, et al. (*Donaldson*), in view of U.S. Patent No. 7,092,992 to Yu (*Yu*). Applicant respectfully traverses this rejection for at least the following reasons.

With regard to independent claims 1, 20, 24, and 26 Applicant reasserts the arguments put forth in the Request for Reconsideration submitted on November 15, 2006. Namely, each of these independent claims recites a penalty count value associated with an e-mail sender based on an undesirable activity performed by the sender. The Office Action alleges that *Yu* teaches these independent claim features which relate to a penalty count based on undesirable sender activity. For example, page 6 of the Office Action alleges that "assessing a penalty count value to said sender identifier for an undesirable activity performed by the sender," as recited in claim 1, is taught by *Yu* at col. 7, line 59 to col. 8 line 16. However, as argued in the previous Request for Reconsideration, the "score value" generated in *Yu* refers only to the individual e-mail message, not to the sender of the message. (Col. 8, lines 5-16) Thus, the decision to assign a higher or lower score to an e-mail is never based on any previous "undesirable activity" performed by the e-mail sender, but is simply based on the content of the e-mail itself. *Yu* also describes comparing the sender to a list of authorized senders, but gives no indication of how an e-mail sender address might be added or removed from the authorized sender list. The Examiner is apparently inferring from the

Application No.: 09/895,532
Reply to Office Action of February 9, 2007

authorized sender list that sender addresses are added and removed from the list based on previous “undesirable activity” performed by the sender. Applicant disagrees with and has not found support for this inference within *Yu*. At best, a list of authorized senders would be equivalent to maintaining a Boolean value for each sender, i.e., either allowed or not allowed. The list of authorized senders is not the same as assessing a penalty count value to said sender identifier for an undesirable activity performed by the sender, as claimed. Therefore, for at least the above-stated reasons, and primarily because *Yu* does not teach or suggest a penalty count value associated with an e-mail sender based on an undesirable activity performed by the sender, Applicant submits that independent claims 1, 20, 24, and 26, and all of their respective dependent claims, are not obvious over the proposed combination of *Donaldson* and *Yu*.

Claims 11-13, 17, 42-44, and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Donaldson* and *Yu*, in view of U.S. Patent No. 6, 502,135 to *Munger et al.* (*Munger*). However, since *Munger* does not teach or suggest a “penalty count value” in relation to or based on a “previous undesirable activity performed by the sender,” as recited in the independent claims, *Munger* thus fails to overcome the above-discussed deficiencies of *Donaldson* and *Yu*. Therefore, claims 11-13, 17, 42-44, and 48, are allowable over *Donaldson*, *Yu*, *Munger*, and their proposed combination for at least the same reasons as their respective base claims, as well as based on the additional features recited therein.

Further to the arguments made in the previous Request for Reconsideration, Applicant also believes that several dependent claim features in the instant application are patentable over the art of record for the additional reasons discussed below.

Claim 5

Claim 5 recites, “an activity penalty count charged to the sender for current undesirable sender activity and a time-dependent penalty count determined from previous undesirable sender activity.” The Office Action alleges that *Donaldson* teaches a “time-dependent penalty count determined from previous undesirable sender activity,” at col. 5, line 59 to col. 6, line 2. However, page 6 of the Office Action states that *Donaldson*, “does not specifically teach the details of a method wherein determining said cumulative penalty count value comprises assessing a penalty count value to said sender identifier for an undesirable activity.” Thus, Applicant submits

Application No.: 09/895,532
Reply to Office Action of February 9, 2007

that any implication that *Donaldson* teaches a “time-dependent penalty count determined from previous undesirable sender activity,” is inconsistent with the previous statement on page 6 of the Office Action.

Additionally, Applicant disagrees with the Examiner’s note on page 8 of the Office Action, which states “attempting to send a copy of the message 100 times suggest that the penalty count dependent on previous undesirable sender’s activity.” Merely describing an undesirable activity of an e-mail sender does not suggest that a time-dependent penalty count is determined from that undesirable activity. Applicant respectfully submits that neither *Donaldson* or *Yu*, alone or in combination, teaches or suggests a “time-dependent penalty count,” as recited in claim 5.

Claim 7

Claim 7 depends from claim 5 and further recites “wherein said time-dependent penalty count comprises a prior activity penalty count value reduced by a time-dependent decay factor.” The Office Action alleges that *Donaldson* teaches this feature at col. 21, lines 12-56, and notes that *Donaldson* discloses an e-mail filter that “adds or subtracts points” depending on the node name of the remote host. However, adding or subtracting points does not suggest a “time-dependent decay factor,” because the “points” and “score values” respectively disclosed in *Donaldson* and *Yu* refer only to the e-mail message itself, not to the sender. Thus, neither *Donaldson* nor *Yu*, alone or in combination, teach or suggest a penalty count dependent on previous undesirable sender activity which is “reduced by a time-dependent decay factor,” as recited in claim 7.

Claim 23

Claim 23 depends from claim 20 and further recites, “wherein said overall resource usage value is a function of a member of the group consisting of: the number of concurrent TCP connections being maintained, the number of e-mail files in an incoming message queue, and the amount of disk space being utilized for an incoming message queue.” The Office Action alleges that *Donaldson* teaches this feature at col. 25, lines 59-64 and col. 5, lines 52-28. The Office Action further notes that *Donaldson* discloses a “message store with a mail queue that keeps

Application No.: 09/895,532
Reply to Office Action of February 9, 2007

undelivered messages for up to a week.” However, merely disclosing a message queue and a technique for opening up SMTP connections does not teach or suggest “disposing of the incoming e-mail on the basis of ... the number of concurrent TCP connections being maintained, [or] the number of e-mail files in an incoming message queue, [or] the amount of disk space being utilized for an incoming message queue,” as recited by the concatenation of base claim 20 and dependent claim 23. Accordingly, claim 23 is not obvious over the combination of *Donaldson* and *Yu* for this additional reason.

Claim 27

Claim 27 recites, “maintaining a behavior trace table entry for the e-mail sender,” and “determining said previous sender penalty count from said behavior trace table.” The Office Action alleges that *Donaldson* teaches a behavior trace table at col. 21-22 and Table 3. However, as described on page 5, lines 10-15 of the instant specification, the behavior trace table stores information for tracking the behaviour of e-mail senders. In contrast, *Donaldson’s* Table 3, entitled “Neighboring IP Addresses for Remote Host 63.11.217.117,” does not disclose or even relate to the “behavior” of any of the nodes listed in the table, and is therefore not the equivalent of the “behavior trace table” recited in claim 27. Applicant does not believe that *Donaldson* or *Yu*, alone or in combination, teaches or suggests a “behavior trace table,” as recited in claim 27.

Claim 28

Claim 28 depends from claim 27 and further recites, “updating sender behavior values in said trace table entry in response to receipt of a sender e-mail.” Thus, claim 28 is allowable for at least the same reasons discussed above in relation to claim 27. Additionally, Applicant notes that the portion of *Donaldson* purported by the Office Action to teach this feature (i.e., col. 17, line 65 to col. 18, line 7; Fig. 14, item 1408) does not disclose “updating ... a table entry,” as recited in claim 28.

RECEIVED
CENTRAL FAX CENTER
MAY 29 2007

Application No.: 09/895,532
Reply to Office Action of February 9, 2007

Claim 32

Claim 32 recites, "wherein said previous sender penalty count value is determined from undesirable sender activity occurring over a pre-established retention period." The Office Action alleges that *Donaldson* teaches this feature at col. 5, lines 52-28. The Office Action further notes that *Donaldson* discloses a mail store that "will usually keep undelivered messages in its queue for up to a week." However, as discussed above, merely disclosing a message queue that retains messages does not teach or suggest a pre-established retention period for determining undesirable sender activity. In other words, retention of messages in a mail delivery queue is completely unrelated to retention of a penalty count value based on a sender's undesirable activity, even though both include the word "retention." Accordingly, Applicant submits that claim 32 is not obvious over the combination of *Donaldson* and *Yu* for this additional reason.

CONCLUSION

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the examiner is requested to contact the undersigned at (202) 824-3153.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: May 29, 2007

By: /Ross Dannenberg/

1100 13th Street, N.W. – Suite 1200

Washington, D.C. 20005

Tel: (202) 824-3000

Fax: (202) 824-3001

Ross Dannenberg
Registration No. 49,024

RAD/BB